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Promotion and protection of the rights of children: promotion and protection of the rights of children

Security Council
Seventieth year

Letter dated 28 August 2015 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Secretary-General

I have the honour to submit to you the report of the workshop, "Children and Armed Conflict: Implementing Security Council resolution 1998 (2011)" (see annex), convened by the Federal Foreign Office of the Federal Republic of Germany and the German Institute for International and Security Affairs on 22 and 23 January 2015 in Berlin. The report reflects the views of the workshop participants.

I should be grateful if you would circulate the present letter and its annex as a document of the General Assembly, under agenda item 64 (a), and of the Security Council.

(*Signed*) Heiko **Thoms**
Chargé d'affaires a.i.

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Annex to the letter dated 28 August 2015 from the Chargé d'affaires a.i. of the Permanent Mission of Germany to the United Nations addressed to the Secretary-General

Report of the workshop, Children and Armed Conflict: Implementing Security Council resolution 1998 (2011)

1. On 22 and 23 January 2015, the German Institute for International and Security Affairs and the Federal Foreign Office of Germany convened a workshop on "Children and Armed Conflict: Implementing Security Council resolution 1998 (2011)", at the German Institute for International and Security Affairs in Berlin. The workshop brought together representatives of States Members of the United Nations, including members of the Security Council, the Department of Peacekeeping Operations of the Secretariat of the United Nations, the United Nations Children's Fund (UNICEF), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the European Union and various non-governmental organizations (NGOs) and academic institutions, to discuss measures to strengthen the implementation of Security Council resolution 1998 (2011), and its related Guidance Note "Protect Schools and Hospitals". The workshop took place under the Chatham House Rules.

2. Security Council resolution 1998 (2011) was adopted under Germany's Presidency of the Security Council in July 2011. It added attacks on schools and hospitals, defined as a grave violation against children in armed conflict in Security Council resolution 1612 (2005), to the triggers for listing parties to conflict in the annexes of the Secretary-General's annual report on Children and Armed Conflict. The Guidance Note was jointly launched on 21 May 2014, by the Secretary-General's Special Representative for Children and Armed Conflict, UNESCO, UNICEF and the World Health Organization (WHO). Its objective is to strengthen monitoring and reporting on attacks on schools and hospitals, related protected personnel, and on the military use of schools.

Summary

3. On the first day of the workshop, participants discussed the background of the adoption of Security Council resolution 1998 (2011) and its provisions in closed sessions. Discussions were also held on the measures required to strengthen the implementation of the resolution, including the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflicts, and its state of endorsement by States Members of the United Nations (session I). UNICEF, the Department of Peacekeeping Operations of the Secretariat of the United Nations and the NGO "Conflict Dynamics" presented various measures aimed at increasing the protection of schools and hospitals (session II). The last closed session of day one took the form of a discussion on the potential role of new technologies in reporting attacks on schools and hospitals (session III). Following the closed sessions, a public session was held with a broader audience, including parliamentarians, journalists and workshop participants. At that session, there was a presentation by the Secretary-General's Special Representative for Children and Armed Conflict, Ms. Leila Zerrougui, followed by a discussion panel of four experts stressing the impact of armed conflict specifically on girls. On day two of the workshop,

attendees participated in a group exercise, using the Guidance Note to practice the reporting of attacks on schools and hospitals in various case studies (session IV). In a session on specific conflict situations and respective challenges (session V), participants assessed the situation in the West Bank, southern Thailand and Nigeria. In the concluding session, the workshop findings and observations were outlined, and the steps required to strengthen the implementation of Security Council resolution 1998 (2011) were defined.

Taking stock of attacks on schools and hospitals and their military use

4. The first workshop session addressed the issue of attacks on schools and hospitals, and their military use. During this session, it was recalled that the Security Council has issued many resolutions aimed at protecting children. It was noted, however, that only if the international community works together, can children be adequately protected in armed conflicts. Participants agreed that the workshop provided an excellent opportunity to discuss the measures required to reach this common goal.

5. As a starting point, participants discussed the findings of a 2014 report called "Education Under Attack" by the Global Coalition to Protect Education from Attack. It was noted that from 2009 until 2013, attacks occurred in over 70 countries worldwide, more than ever previously reported. It is not clear, however, whether this was due to better monitoring, or to an increase of attacks. It was underlined that in some cases, students, teachers and schools had been targeted intentionally as a tactic of warfare. Afghanistan, Colombia, Pakistan, Somalia, the Syrian Arab Republic and the Sudan are the worst-affected countries. Schools there were attacked or used for military purposes in more than 1,000 incidents between 2009 and 2013.

6. The following reasons for attacks were identified by workshop participants:

(a) Ideological reasons: Armed groups see schools as "Western", or are opposed to the education of girls. A recent example of this was last year's abduction of over 200 schoolgirls from Chibok, Nigeria, by Boko Haram;

(b) Easy targets: Schools are typically State institutions and teachers are State employees. They are targeted to undermine confidence and support in the State. Schools are easier targets than Government forces;

(c) Lack of equal access to schools: Often lack of equal access can be a trigger for violence against education facilities;

(d) Military use of schools: Occasionally schools are attacked as a military target after being used for military purposes. Often, schools are used as a military base, barracks or detention centre. Of the 30 countries profiled in the report, in 24 countries schools were being used for military purpose from 2009 to 2013.

7. Participants agreed that military use of schools and attacks on them lead to:

(a) Death and destruction: Death, injury, fear, psychological stress for students and destruction of school buildings;

(b) Limited access to education: As a result of damage, schools are forced to close and it often takes years to rebuild them;

(c) Fewer girls attend school: Owing to the risk of sexual violence, parents are particularly afraid to send their daughters to schools;

(d) Costs of repairing schools: In South Sudan, there are currently fighters occupying 48 schools. In 2011, the cost of repairing these schools was approximately $67,000 per school. This is an enormous amount in a country where resources for education are limited;

(e) Loss of opportunities: Among other things, school closures lead to a loss of opportunities for children and the economy.

8. Most participants agreed that implementing the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict (formerly known as Lucens Guidelines) could improve the protection of students and education facilities during armed conflict. It was noted that, in its resolution 2143 (2014), the Security Council encouraged Governments to develop concrete measures to deter the use of schools by armed forces. Participants underlined that these Guidelines contain such measures, and urged States to incorporate them into their national legislation and military doctrine. The need for a declaration on safe schools, including a commitment to implement the Guidelines, was emphasized.

9. While analysing the legal dimension of the Guidelines, a number of participants underlined that these Guidelines are focused and useful. However, it was also noted that their legal implications raise some questions. This is due to a possible confusion concerning the precise boundary between binding rules of international humanitarian law and non-binding good practices in the Guidelines. While the recommendations are within the scope of human rights law, in some respects they exceed what is actually dictated by international humanitarian law in situations where it would be applicable as lex specialis. This might explain the reluctance of some States to endorse such Guidelines. It was underlined by some participants that the Guidelines are not intended to affect existing international law, but are rather perceived as a collection of best practices. A number of participants argued that the Guidelines should be implemented because they could effectively protect education facilities and students from suffering during armed conflict. As a way forward, and to alleviate the reservations of some States about the legal implications of the Guidelines, it was suggested that their political character and their focus on best practice policies should be clearly emphasized and that any impression that they represent international law as it stands, or an attempt to change international law, should be avoided.

10. With regard to the Guidelines, participants also stressed that even non-binding soft law Guidelines might have some impact on existing law. The following possible impacts were identified:

(a) Soft law might create expectations of good faith;

(b) Soft law might have an impact on the interpretation of existing international law;

(c) Soft law can become relevant in national legislation and jurisprudence (which is in fact the intended effect of the Guidelines);

(d) Soft law may also function as a catalyst for the evolution of customary international law. If a number of States consistently follow the Guidelines over a

certain period of time, and if these States develop a sense of legal obligation, there might be a change in customary international law.

How to better protect schools and hospitals

11. The second workshop session focused on concrete measures to better protect schools and hospitals. Participants examined how the military components in peacekeeping missions such as in the Sudan (United Nations-African Union Mission in Darfur (UNAMID)), South Sudan (United Nations Mission in South Sudan (UNMISS)), the Democratic Republic of the Congo (United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO)), Mali (United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)), as well as civil society, can be partners in protecting schools and hospitals. The specific role of military components in peacekeeping missions in the protection of schools and hospitals encompasses:

(a) Prevention by implementing early warning and monitoring systems (the Democratic Republic of the Congo in 2013 by MONUSCO);

(b) Protection by presence via active patrols around schools and building barriers (in the Sudan by UNAMID in 2012, in Darfur, South Sudan by UNMISS in July 2014, in North Kivu in the Democratic Republic of the Congo by MONUSCO in November 2014);

(c) Monitoring of grave violations and reporting information to child protection sections (MONUSCO — the Democratic Republic of the Congo).

12. Participants also evaluated the civilian components of peacekeeping operations, and emphasized the specific role of child protection advisers in the protection of schools and hospitals including:

(a) Mainstreaming and child protection training;

(b) Monitoring and reporting of grave violations (the so-called monitoring and reporting mechanism);

(c) Engaging the leadership of a mission;

(d) Entering into dialogue with parties to a conflict, especially with a view to achieving signed action plans on children and armed conflicts.

13. Participants identified various challenges that undermine the protection of schools and hospitals. These include the limited access to monitoring which directly affects the quality of the reporting, the occupation of schools by armed forces, as well as the limited dissemination of guidance (e.g., to legal advisers). The question of whether schools should be used as polling stations during conflict situations was also assessed.

14. Some of the challenges described above could be addressed by: increasing dissemination and application of the Guidance Note on Security Council resolution 1998 (2011), reviewing the Child Protection Policy of the Department of Peacekeeping Operations, enhancing training for Child Protection Advisers, establishing child protection focal points (United Nations military and national armed forces), and providing briefings to the United Nations Special Committee on Peacekeeping Operations.

15. Since the adoption of Security Council resolution 1998 (2011), the development of new guidance for military components has been welcomed, in particular, the United Nations Infantry Battalion Manual (UNIBAM, August 2012), the United Nations Force Headquarters Handbook (November 2014), and the Protection of Civilians: Implementing Guidelines for Military Components of United Nations Peacekeeping Missions (February 2015).

16. It was noted that the inclusion of clear language on child protection in United Nations-mandated missions is a long-standing request put forward in various prior workshops. For this, participants encouraged the use of specific language on schools and hospitals such as, "schools shall not be used by the military in their operations". Participants also pointed out that Battalion Commanders must inform conflict parties about the political consequences of specific violations of international humanitarian law.

17. There was consensus among participants that community engagement must be a priority when protecting schools. When communities realize schools deserve protection, it is much easier to ensure.

18. Participants drew attention to the overall lack of accountability for serious violations against children in armed conflict (i.e., the accountability gap). Noting the emphasis on the need for accountability in Security Council resolution 1998 (2011), in particular paragraph 11, they stressed that accountability is a means of providing a remedy, but that proper accountability mechanisms also aid prevention. This entails efforts at all levels — not only as part of international justice mechanisms — to assign responsibility, enforce laws and norms, reform systems and empower children and communities affected by armed conflict. Discussants also called for practical strategies for increased tangible accountability to be developed under all children and armed conflict accountability mechanisms, including those under the auspices of the Security Council.

19. With regard to expanding the monitoring and reporting mechanism triggers, it was agreed that it is important to bear in mind the additional costs that might be incurred by the expansion, especially as new situations may appear on the agenda.

The role of new technologies in reporting attacks on schools and hospitals

20. The third workshop session examined the role of new technologies in reporting attacks on schools and hospitals. Initially, a broad overview was presented on the increased role of new technology, and the range of its potential applications. New technologies are increasingly used in major humanitarian responses (including conflict situations), as well as in documenting human rights abuses, and in analysing patterns and trends of violence across locations and time. Different uses of new technologies that could potentially foster the monitoring and reporting of attacks, such as digital data collection, crowdsourcing data collection, crisis mapping, and remote sensing, have been introduced. The participants underlined that new technologies offer opportunities for strengthening the collection, analysis and use of information on attacks. However, it was also noted that these opportunities bring challenges and risks, such as ensuring the safety of people who collect and report data, something which also needs to be thoroughly considered.

21. Research shows that the average person spends up to 2.5 hours on digital devices every day, and over 80 per cent of that time on applications. For the

purposes of humanitarian technologies, it is important to note that much of this use can be tracked to developing countries. Between 2004 and 2015, the world has seen an increase of over 50 per cent in smartphone and Internet usage in regions such as Africa and the Middle East, while over 78 per cent of the world's mobile phone subscriptions are now to be found in developing countries.

22. As an example of how new technology can improve access to the normative framework of the Children and Armed Conflict Agenda of the Security Council, Watchlist presented the smartphone application "Children and Armed Conflict", that was developed in 2012 in cooperation with the Permanent Mission of Liechtenstein to the United Nations. The application provides international policymakers, United Nations personnel and NGOs involved in child protection with ready access to key documents and recommendations for action. For example, it compiles all Security Council thematic resolutions on children and armed conflict, identifies the relevant underlying sources of international humanitarian and human rights law, and provides examples of model language on child protection from previous Security Council resolutions. It also includes a checklist specifically aimed at Security Council members on mainstreaming child protection in Security Council resolutions, with links to examples from previous resolutions. In a section entitled "Country situation", users will find background information on violations against children in armed conflict situations. To date, the Watchlist application has had over 4,600 downloads in more than 129 countries worldwide, with the bulk of those downloads in developing countries. The Children and Armed Conflict application was among the top three finalists for the "Human Rights Tulip Award". It is currently available in English and French, and will soon be available in Arabic.

23. The session also touched upon how to deal with legal questions associated with content generated through technology. In a presentation, a legal test of information, designed to ensure that generated content can be subject to legal prosecution, was introduced. The test comprises three steps assessing the relevance, the reliability and the way in which data was analysed. The question of how children can participate in documentation and at which age it is ethical to get them involved in it was also raised.

24. Examples of civilian-created video content highlighting human rights violations was also presented. The increasing number of smartphones, and other camera devices, has led to large volumes of footage captured by a greater diversity of people, thus benefiting the comprehensive documentation of human rights abuses. The participants underlined that video footage does not replace other types of evidence, but rather acts as an important contribution to assessing conflict situations. Verification of such videos was defined as a major challenge. Promising verification tools, for example "InformaCam" developed by the NGO WITNESS and The Guardian Project, are still in the testing phase.

25. In the discussion, participants expressed their support for innovative ideas in connection with new technologies in child protection. They welcomed the Watchlist smartphone application as a good example and suggested further development of the application, in particular by increasing its usability in the field. However, despite the benefits of new forms of data collection, it was stressed that the safety of those documenting situations and collecting data is of paramount importance.

26. Difficulties regarding the verification of collected information have to be overcome so that it can be used as evidence in court. Participants noted the trade-off

that can exist between improved verification through more information on the material's source and creator and concerns regarding the security of documenters. Data technology is difficult to use in court in general as the technological foundation is often challenged. Participants underlined that the technology is still evolving. There is a good chance that weaknesses can be eliminated.

27. Participants made it clear that expanding the use of the application and other innovative technologies would require further funding. Following the example of Liechtenstein, other Member States should consider providing funds for follow-up projects. A new platform for exchange between child protection and technology communities should be created to promote dialogue and leverage expertise.

Training session based on the Guidance Note

28. The fourth session spotlighted the Guidance Note on the implementation of Security Council resolution 1998 (2011) on attacks on schools and hospitals. In the introductory remarks of the briefing, it was recalled that the Guidance Note aims to:

(a) Enhance understanding of the Security Council framework for attacks on schools and hospitals;

(b) Strengthen the monitoring and reporting of attacks, including definitions, violation categories and what information to collect;

(c) Provide tools for advocacy and dialogue, including Security Council-mandated action plans on attacks on schools and hospitals;

(d) Increase United Nations and civil society partnerships to halt, prevent and respond to attacks on schools and hospitals.

29. In the second part of the session, participants split up into groups. Each group was asked to draw from the Guidance Note and apply it to various concrete case studies, with a view to understanding the complexity of the specific violation and the practical realities for practitioners in the field. The aim was to create links between the persons implementing Security Council resolution 1998 (2011) on the ground and the actors involved in developing and strengthening the children and armed conflict mandate at the political level in the Security Council. The objective was to provide a sense of mutual understanding on the implications of Security Council provisions and guidance for persons in the field, and how challenges faced on the ground could be integrated in further deliberations on future Security Council resolutions relevant to a certain kind of violation. Throughout this exercise, groups examined the following questions: Is it a monitoring and reporting mechanism violation? If so, what information is needed? Is it a violation of international law? What is the reasoning? Would the violation be a trigger for listing? How would you approach advocacy/dialogue? Which immediate preventive and protective measures could be taken? The group exercise revealed how complex and challenging it can be to answer these questions. An interactive electronic version of the Guidance Note could therefore be a great asset to support and guide field personnel while monitoring and reporting attacks on schools and hospitals.

Specific conflict situations and respective challenges

30. The sixth workshop session highlighted the specific challenges of conflict situations in the West Bank, southern Thailand and Nigeria. During the session, participants emphasized several points:

(a) Schools present an easy target. While teachers may be seen as representing the State, children are not seen as children;

(b) Challenges remain regarding the verification and reliability of data. In Nigeria geographical imaging is a promising tool for preventing a much broader spectrum of attacks on schools. Participants called on States to refrain from obstructing United Nations agencies and NGOs in the verification of information;

(c) The monitoring and reporting mechanism has undoubtedly improved child protection, but there are still weaknesses. On the one hand, it was acknowledged that the monitoring and reporting mechanism is only a human instrument, employed by humans, and as such has its natural limits. On the other hand, participants highlighted the political limitations of the system that prevent the monitoring and reporting mechanism from realizing its full potential. The need to ensure the impartiality and neutrality of the monitoring and reporting mechanism was emphasized;

(d) Regarding the working methods in the Security Council and the Working Group, participants noted that the need for consensus makes it difficult to ensure that every situation is sufficiently considered by the Working Group.

Recommendations

Based on the discussions during the workshop, the following recommendations were made to strengthen the implementation of Security Council resolution 1998 (2001) and enhance the Children and Armed Conflict agenda:

The Security Council should, on a regular basis, invite UNESCO, UNICEF and other relevant civil society organizations to brief on attacks on education facilities and students when considering country-specific situations.

If fears that the Guidelines are aimed at changing international humanitarian law as it stands can be alleviated, States should consider endorsing the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict (formerly known as Lucens Guidelines), while emphasizing the practical values and best practice policies of the Guidelines.

More resources should be dedicated to understanding and addressing the root causes and methods of child recruitment by armed groups, and they should be made available to organizations developing strategies for prevention purposes.

States and United Nations organizations should step up efforts to support organizations monitoring, analysing, and evaluating the risk of child recruitment in vulnerable communities (cities, villages, refugee camps and schools), particularly in areas inside or bordering territories held by extremist groups.

The Security Council, States and all other relevant institutions and organizations with a mandate related to accountability for serious violations against children in armed conflict must step up efforts to develop and implement practical

strategies for increasing tangible accountability in the areas of assigning responsibility, enforcing laws and norms, reforming systems and empowering children and communities affected by armed conflict.

States, United Nations organizations and NGOs should employ technology as an important tool in the protection of children in armed conflict situations; the focus should be on closing the gap between NGO work on technology and the work of child protection advisers in the field, who often do not have access to innovative technological tools.

States and United Nations organizations should support projects aimed at developing new innovative technologies which improve the access to and flow of information on grave violations against children. This could be achieved by enhancing the Children and Armed Conflict mobile application developed by Watchlist to support field personnel in reporting and monitoring attacks on schools and hospitals. Such projects would also contribute to strengthening the communication between United Nations missions and the Security Council.

Local communities should be involved in protecting schools. Their initiative is crucial to protecting schools.

The capabilities of child protection advisers should be strengthened by offering more training programmes, and providing more resources for collecting and analysing information on attacks against schools and hospitals.

Those drafting United Nations mission mandates must understand that specialized child protection advisers are in a better position to protect children than human rights officers. The language of United Nations mission mandates must be drafted so as to ensure that the mission's child protection components are provided with the necessary capacities, resources and training.

More resources should be provided to strengthen national accountability mechanisms, including providing investigative and prosecutorial capacities for assigning responsibility to perpetrators. It should be ensured that reintegration programmes for empowering children are provided with the necessary funding.

The international child protection community should be encouraged to meet once a year to discuss issues related to the advancement and implementation of the agenda. A more standardized and regular workshop format would also provide an opportunity for newly elected members of the Security Council to familiarize themselves with the agenda, and meet with key actors in the child protection community ahead of their Council membership.

The workshop builds on previous initiatives from May 2011, February 2013, and December 2013 when the Federal Foreign Office of Germany, the Principality of Liechtenstein, the Liechtenstein Institute on Self-Determination at Princeton University, Watchlist for Children and Armed Conflict, the Federal Academy for Security Policy, and the German Institute for International and Security Affairs organized, in varying formations, workshops on the Children and Armed Conflict Agenda in Berlin and in Princeton, New Jersey, United States of America. Reports of these workshops have been published as documents of the General Assembly and the Security Council (A/67/794-S/2013/158, A/68/750-S/2014/91). Outstanding key recommendations from those workshops on the implementation and enhancement of the Children and Armed Conflict Agenda are as follows:

Recommendations to the Security Council

- Ensure an adequate child protection mandate, and request timely and sufficient child protection capacity in all relevant Security Council-authorized missions. This includes peacekeeping and special political missions, with a specific focus on monitoring and the reporting of violations, and support for action plan conclusion and implementation
- Incorporate a children and armed conflict dimension in the terms of reference and reports of all Security Council field visits
- Include violations against children as designation criteria in all relevant sanctions committees, and consider options for extending the sanction regimes to other situations of armed conflict involving violations against children
- Subject individuals responsible for such violations to sanctions, and include references to violations against children in the review of narrative summaries issued by sanctions committees
- Invite regularized briefings of the Special Representative of the Secretary-General for Children and Armed Conflict to all relevant sanctions committees.

Recommendations to the Working Group on Children and Armed Conflict

- Make better use of field visits, press conferences, and press statements by the Chair of the Working Group to draw attention to violations against children and to the work of the Working Group
- Request written feedback from all concerned parties on steps taken to implement recommendations contained in Working Group conclusions
- Consider options to increase pressure on persistent perpetrators, by reviewing the use and effectiveness of its toolkit, with a specific focus on which tools have proven or could prove most effective in inducing compliance by different types of perpetrators
- Invite briefings (in-person or via video link) from the relevant Resident Coordinator or Special Representative of the Secretary-General for a given country on the situation in relation to perpetrators, including efforts made and challenges encountered in action plan implementation and conclusion
- Transmit conclusions to the chairs of relevant sanctions committees, and to the International Criminal Court Prosecutor.

Recommendations to Member States

- Mainstream children and armed conflict within foreign ministries and related government agencies, encouraging in particular the use of bilateral diplomacy and conditionality, in development or military assistance, to spur action plan conclusion and implementation
- Establish a "group of friends" at the country level to target action plan conclusion and implementation through bilateral diplomacy
- Support efforts to strengthen national accountability mechanisms, including the development of legislation criminalizing violations against children, and

building investigative and prosecutorial capacities, as well as disarmament, demobilization, and reintegration programmes.

Recommendations to the Secretary-General

- Include children and armed conflict as a specific aspect of all country reports as requested by the Security Council in its resolutions 1460 (2003), 1612 (2005), 1882 (2009), and 1998 (2011)
- Include a section on the impact of the Working Group's conclusions and recommendations in each country-specific report on the situation of children and armed conflict
- Encourage all relevant Resident Coordinators and Special Representatives to prioritize the monitoring and reporting of violations against children, and the conclusion and implementation of action plans
- Ensure timely deployment of an adequate number of child protection advisers in all relevant United Nations peacekeeping, peacebuilding, and political missions to support the monitoring and reporting of violations and action plan conclusion and implementation.